

111TH CONGRESS
1ST SESSION

H. R. 3450

To prohibit certain restraints of competition adversely affecting automobile dealers.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Ms. JACKSON-LEE of Texas (for herself, Mr. JOHNSON of Georgia, Ms. FUDGE, Ms. KILPATRICK of Michigan, Ms. CLARKE, Mr. HARE, Mr. POE of Texas, Mr. MASSA, Mr. COHEN, Mr. BERRY, Mr. FALEOMAVAEGA, Mr. TONKO, Mr. KUCINICH, Mr. REYES, Ms. CORRINE BROWN of Florida, and Mr. ROTHMAN of New Jersey) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit certain restraints of competition adversely affecting automobile dealers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automobile Dealers
5 Fair Competition Act of 2009”.

1 **SEC. 2. PROHIBITION AGAINST CERTAIN RESTRAINTS OF**
2 **TRADE.**

3 (a) PROHIBITION.—It shall be unlawful for any new
4 automobile manufacturer (as defined in subsection (c)) en-
5 gaged in commerce, in the course of such commerce, di-
6 rectly or indirectly, to unreasonably discriminate against,
7 or unreasonably deny a franchise to, an automobile dealer
8 (as defined in subsection (d)) in any case in which the
9 automobile dealer applies to such manufacturer, within 60
10 days after the date of the enactment of this Act, for the
11 retention of its franchise and presents adequate evidence
12 that it is a going concern.

13 (b) EXPEDITED ACTIONS TO PROTECT FRANCHISE
14 AGREEMENTS.—In order to protect the economic rights
15 of automobile dealers, if at the end of 90 days following
16 the date of the enactment of this Act, if a new automobile
17 manufacturer has not entered into an agreement with an
18 automobile dealer to restore its franchise, the automobile
19 dealer, at the dealer's option, shall be able to seek enforce-
20 ment of its rights under subsection (a) by filing an action
21 therefor in a United States district court under a proce-
22 dure in which a master appointed by the court shall hear
23 the matter and make a recommendation to the court with-
24 in 90 days after the filing of the action. The court shall
25 adopt the master's recommendation if in accord with the
26 law and facts. The provisions of this subsection shall not

1 be in derogation of any rights an automobile dealer other-
2 wise has under this section.

3 (c) DEFINITION OF “NEW AUTOMOBILE MANUFAC-
4 Turer”.—As used in subsection (a), the term “new auto-
5 mobile manufacturer” means an automobile manufac-
6 turing company established in 2009 that is the successor
7 to another automobile manufacturing company and ac-
8 quires in such year the assets of the predecessor auto-
9 mobile manufacturing company in a transaction governed
10 by section 363 of title 11 of the United States Code.

11 (d) DEFINITION OF “AUTOMOBILE DEALER”.—As
12 used in subsection (a), the term “automobile dealer”
13 means any automobile dealer in the United States that,
14 on January 1, 2009, held a franchise granted by an auto-
15 mobile manufacturing company that was the predecessor
16 company to a new automobile manufacturer to sell that
17 company’s automobiles, but that, on the date of the enact-
18 ment of this Act, has not entered an agreement with the
19 new automobile manufacturer that is a successor to that
20 company to continue serving as a franchisee.

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